

## § 2201.9

States'' in effect at the time of conveyance.

(2) Conveyances of lands from the United States shall be by patent, quitclaim deed, or deed without express or implied warranties, except as to hazardous substances pursuant to § 2200.0-6(j)(1) of this title.

(c) *Title encumbrances*—(1) *Non-Federal lands*. (i) Title to the non-Federal lands must be acceptable to the United States. For example, encumbrances such as taxes, judgment liens, mortgages, and other objections or title defects shall be eliminated, released, or waived in accordance with requirements of the preliminary title opinion of the Office of the Solicitor of the Department of the Interior or the Department of Justice, as appropriate.

(ii) The United States shall not accept lands in which there are reserved or outstanding interests that would interfere with the use and management of land by the United States or would otherwise be inconsistent with the authority under which, or the purpose for which, the lands are to be acquired. Reserved interests of the non-Federal landowner are subject to agreed upon covenants or conditions included in the conveyance documents.

(iii) Any personal property owned by the non-Federal party that is not a part of the exchange proposal should be removed by the non-Federal party prior to acceptance of title by the United States, unless the authorized officer and the non-Federal party to the exchange previously agree upon a specified period to remove the personal property. If the personal property is not removed prior to acceptance of title or within the otherwise prescribed time, it shall be deemed abandoned and shall become vested in the United States.

(iv) The exchange parties must reach agreement on the arrangements for the relocation of any tenants. Qualified tenants occupying non-Federal lands affected by a land exchange may be entitled to benefits under 49 CFR 24.2. Unless otherwise provided by law or regulation (49 CFR 24.101(a)(1)), relocation benefits are not applicable to owner-occupants involved in exchanges with the United States provided the owner-occupants are notified in writing

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that the non-Federal lands are being acquired by the United States on a voluntary basis.

(2) *Federal lands*. If Federal lands proposed for exchange are occupied under grant, permit, easement, or non-mineral lease by a third party who is not a party to the exchange, the third party holder of such authorization and the non-Federal party to the exchange may reach agreement as to the disposition of the existing use(s) authorized under the terms of the grant, permit, easement, or lease. The non-Federal exchange party shall submit documented proof of such agreement prior to issuance of a decision to approve the land exchange, as instructed by the authorized officer. If an agreement cannot be reached, the authorized officer shall consider other alternatives to accommodate the authorized use or shall determine whether the public interest will be best served by terminating such use in accordance with the terms and provisions of the instrument authorizing the use.

### § 2201.9 Case closing.

(a) *Title transfers*. Unless otherwise agreed, and notwithstanding the decision in *United States v. Schurz*, 102 U.S. 378 (1880), or any other law or ruling to the contrary, title to both the non-Federal and Federal lands simultaneously shall pass and be deemed accepted by the United States and the non-Federal landowner, respectively, when the documents of conveyance are recorded in the county clerk's or other local recorder's office. Before recordation, all instructions, requirements, and conditions set forth by the United States and the non-Federal landowner shall be met. The requirements and conditions necessary for recordation at a minimum will include the following, as appropriate:

(1) The determination by the authorized officer that the United States will receive possession, acceptable to it, of such lands; and

(2) The issuance of title evidence as of the date and time of recordation, which conforms to the instructions and requirements of the Office of the Solicitor's preliminary title opinion.

(b) *Automatic segregation of lands*. Subject to valid existing rights, non-

## Bureau of Land Management, Interior

## § 2203.3

Federal lands acquired through exchange by the United States automatically shall be segregated from appropriation under the public land laws and mineral laws until midnight of the 90th day after acceptance of title by the United States, and the public land records shall be noted accordingly. Except to the extent otherwise provided by law, the lands shall be open to the operation of the public land laws and mineral laws at midnight 90 days after the day title was accepted unless otherwise segregated pursuant to part 2300 of this title.

(c) *Notice to State and local governments.* Following the transfer of title to the Federal lands involved in an exchange, notice will be given to State and local officials as prescribed in § 2200.0-6(m) of this part.

### Subpart 2203—Exchanges Involving Fee Federal Coal Deposits

SOURCE: 51 FR 12612, Apr. 14, 1986, unless otherwise noted.

#### § 2203.0-6 Policy.

When determining whether a fee exchange of the Federal coal deposits is in the public interest, it is the policy of the Department of the Interior to consider whether the exchange will create or maintain a situation inconsistent with the Federal anti-trust laws. The Bureau of Land Management, in making the determination of public interest, shall consider the advice of the Attorney General of the United States concerning whether the exchange will create or maintain a situation inconsistent with the Federal antitrust laws.

#### § 2203.0-9 Cross references.

The authorized officer shall implement a fee exchange of Federal coal deposits in compliance with the requirements of subparts 2200 and 2201 on this title.

#### § 2203.1 Opportunity for public comment and public meeting on exchange proposal.

Upon acceptance of a proposal for a fee exchange of Federal coal deposits, the authorized officer shall publish and distribute a notice of exchange pro-

posal as set forth in § 2201.2 of this title.

[51 FR 12612, Apr. 1986, as amended at 58 FR 60926, Nov. 18, 1993]

#### § 2203.2 Submission of information concerning proposed exchange.

(a) Any person submitting a proposal for a fee exchange of Federal coal deposits shall submit information concerning the coal reserves presently held in each geographic area involved in the exchange along with a description of the reserves that would be added or eliminated by the proposed exchange. In addition, the person filing a proposed exchange under this section shall furnish any additional information requested by the authorized officer in connection with the consideration of the antitrust consequences of the proposed exchange.

(b) The authorized officer shall transmit a copy of the information required by paragraph (a) of this section to the Attorney General upon its receipt.

(c) All non-proprietary information submitted under paragraph (a) of this section shall be made a part of the public record on each proposed exchange. With respect to proprietary information submitted under paragraph (a) of this section, only a description of the type of information submitted shall be included in the public record.

(d) Where the entity proposing a fee coal exchange has previously submitted information, a reference to the date of submission and to the serial number of the record in which it is filed, together with a statement of any and all changes in holdings since the date of the previous submission, shall be accepted.

[51 FR 12612, Apr. 14, 1986, as amended 58 FR 60926, Nov. 18, 1993]

#### § 2203.3 Public meeting.

Upon completion of an environmental analysis, but prior to the issuance of a notice of decision, the authorized officer shall publish a notice in the FEDERAL REGISTER setting a time and place where a public meeting will be held to receive public comment on the public interest factors of the proposed exchange. Such notice shall be distributed in accordance with